

~~CONFIDENTIAL~~

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 10-26 are presently active; Claims 1-9 having been canceled and Claims 10-26 having been added by way of the present amendment.

In the outstanding Office Action, Claims 1-9 were rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Filipovich (U.S. Pat. No. 4,653,879) or Janeczko et al. (U.S. Pat. No. 6,088,165). Claims 1-9 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Regarding the 35 U.S.C. §112, second paragraph, rejection, the antecedent basis and alternative claim dependence issues identified in the Office Action have been addressed in the new claims. Further, the new claims, without adding new matter, define the subject invention in a format consistent with standard U.S. patent drafting practice. Thus, it is respectfully submitted that the 35 U.S.C. §112, second paragraph, rejection to Claims 1-9 has been overcome.

With these clarifications, Claim 10 defines a night vision device including an objective configured to receive light from a scene being viewed along a first direction, a light intensifier configured to receive light from the objective, rotate light received from the objective 180° between an entry and exit of the light intensifier, and produce an intensified image, an eyepiece configured to output the intensified image along a second direction substantially parallel to the first direction, and a guidance system comprising plural elements configured to produce a total of four optical deflections, including one deflection in the objective and three

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

other deflections in the eyepiece, to guide light rays between the objective and an output of the eyepiece.

As supported in Figure 3, the specification describes that:

...The median ray of the central field of view of the device is shown as a solid line composed of 5 straight segments 30 to 34, no two successive segments being parallel. This light ray, arriving along a direction of observation D1, enters the device at the point 35 at the center of the aperture of the *objective* and follows the first segment 30. At *deflection 36* it is deflected into an optical deflection plane intersecting the direction of observation D1 of the light to be intensified. It follows the segment 31 which coincides with the longitudinal axis 37 of the light intensifier. The median light ray of the central field leaves the objective and enters the intensifier, encountering the photocathode at point 38 on the segment 31...

....In the *eyepiece*, the light ray shown in figure 3 is subjected to a *first deflection 40*, for example towards the bottom of the user's face along a third straight segment 32. The second and third segments 31 and 32 lie in the optical deflection plane that intersects the direction of observation D1 and in which the light ray is subjected to a *second deflection 41*, this time along a fourth straight segment 33 substantially parallel to the second segment 31...

....At the end of the fourth straight segment 33, the medium ray of the central field is still in the eyepiece and it is subject to a *third deflection 42* which directs it outside the optical deflection plane, towards the eye 4, along a fifth straight segment 34.¹ [emphasis added]

Thus, as supported in Figure 3 and as defined in Claim 10, the compact night vision device includes a guidance device configured with a total of four optical deflections (e.g., reflection points 36, 40, 41, and 42 of Figure 3) to guide light rays between the objective and an output of the eyepiece. By guiding the light from the objective to the output of the eyepiece with a total of four optical deflections, a night vision device becomes compact and compatible to the wearer during unexpected ejections from aircraft.²

¹Specification, page 5, line 20 to page 6, line 24.

²Specification, page 2, lines 29-31.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

In contrast, Filipovich disclose optical assemblies with two intersecting optical paths, including a see-through path and a folded path, with the folded path containing an intensifier for converting visible and infrared light to visible intensified light.³ The folded path, as shown in Figures 4 and 12 of Filipovich, necessitates six optical deflections, one deflection at prism 41, four deflections at mirrors 56, 57, 68, and 73, and a last deflection at prism 41. Thus, it is respectfully submitted that Filipovich does not teach or suggest a guidance device comprising plural elements configured to produce a total of four optical deflections, including one deflection in the objective and three other deflections in the eyepiece, as recited in Claim 1. Hence, Claim 1 is believed to patentably define over the applied art of Filipovich.

Next, Applicant points out that the U.S. filing date of this application is November 19, 1999, and not January 31, 2000, as indicated in the Office Action dated June 18, 2001. A copy of the date-stamped filing receipt of November 19, 1999 is enclosed herewith. The filing receipt along with the enclosed Utility Patent Application Transmittal cover sheet shows filing of the present application with a certified copy of the priority document, French Patent No. 98-15480. The present amendment amends the specification to claim priority to French Patent No. 98-15480 filed December 8, 1998, and submits herewith a certified English translation of the priority document. Hence, it is respectfully submitted that the conditions required by 37 C.F.R. §1.55 have been met and that the applied reference of Janeczko et al. be removed as prior art.

Thus, Claim 10 and Claims 11- 26 which depend from Claim 10 are believed to patentably define over the remaining prior art.

³Filipovich, Abstract, lines 1-7.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Consequently, in view of the present amendment and in light of the above discussions, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Registration No. 25,599
Eckhard H. Kuesters
Registration No. 28,870
Attorneys of Record

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

0154-2855-2X CNF

Marked-Up Copy
Serial No: 09/455,745
Amendment Filed on:
12-17-01

IN THE SPECIFICATION

Please insert on page 1, before line 1, the following header:

--TITLE OF THE INVENTION--

Please insert on page 1, after line 1, the following:

-- Cross-reference to Related Applications

This application claims priority under 35 U.S.C. §119(a) to French Patent No. 98-15480 filed December 8, 1998.--

Please insert on page 1, after line 4, the following header:

--Field of the Invention--

IN THE CLAIMS

10. (New)

11. (New)

12. (New)

13. (New)

~~CONFIDENTIAL~~

CONFIDENTIAL

14. (New)

15. (New)

16. (New)

17. (New)

18. (New)

19. (New)

20. (New)

21. (New)

22. (New)

23. (New)

24. (New)

25. (New)

26. (New)

CONFIDENTIAL



CERTIFICATION

I, Kelly Jones Dresen, hereby certify that the document identified below was translated from French to English by a competent translator of the French and English languages, was edited by a second equally-qualified translator, and that the translation bearing the red ink stamp (Certified Translation, Level 2) is true, accurate and complete to the best of my knowledge and belief.

- Patent, National Registry #98 15480, December 8, 1998

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Comprehensive Language Center Representative

Date: December 13, 2001

Signature: 
Kelly Jones Dresen
Director, Translation & Interpretation
Comprehensive Language Center, Inc.

VOICE 703/276-3967
TOLL FREE 800/634-5764
FAX 703/247-4295
WEB <http://www.comlang.com>

● 4200 WILSON BOULEVARD
SUITE 950
ARLINGTON, VA 22203-1800